

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

TWIN MED, LLC

Plaintiff,

vs.

SKYLINE HEALTHCARE LLC, *et al.*,

Defendants.

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Case No. 4:19-cv-00415-KGB

DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT

Now come Defendants Skyline Healthcare, LLC; Pro Procurement Services, LLC; Joseph Schwartz, Searcy Holdings, LLC d/b/a Searcy Health and Rehab; Lonoke Healthcare Center and Rehabilitation Facility, LLC d/b/a Grand Prairie Care and Rehabilitation; Highlands of Little Rock West Markham, LLC d/b/a Highlands of Little Rock at Midtown Therapy and Living Center; Midtown Therapy and Living Center; Broadway Health Holdings, LLC d/b/a Broadway Health and Rehabilitation; Laurel Brook Healthcare & Rehabilitation Center, LLC; Highlands of Little Rock South Cumberland Holdings, LLC d/b/a Highlands of Little Rock at Cumberland Therapy and Living Center; Highlands of Mountain View SNF Holdings, LLC d/b/a Highlands of Mountain View Therapy and Living Center; Magnolia Health Holdings, LLC d/b/a Magnolia Health and Rehab; White Hall Holdings, LLC d/b/a White Hall Health and Rehab; Linrock Health Care and Rehabilitation Center LLC; Batesville Holdings, LLC d/b/a Batesville Health and Rehab; Heritage of Hot Springs Holdings, LLC d/b/a Heritage of Hot Springs; Mine Creek Holdings, LLC d/b/a Mine Creek Health and Rehab; Jonesboro Holdings, LLC d/b/a Jonesboro Health and Rehab; Highlands of Fort Smith Holdings, LLC d/b/a Highlands of Fort Smith

Therapy and Living Center; Highlands of Stamps Holdings, LLC d/b/a Highlands of Stamps Therapy and Living Center; Highlands of Rogers Dixieland Holdings, LLC d/b/a Highlands of Northwest Arkansas Therapy and Living Center; Creekside Health Holdings, LLC d/b/a Creekside Health and Rehab; Lindley Healthcare and Rehabilitation Center, LLC d/b/a Lindley Healthcare and Rehabilitation Center; and Crown Point Healthcare & Rehabilitation Center, LLC (collectively “Defendants”) by and through their undersigned counsel, states as follows:

1. Defendants respectfully request that this Court, pursuant to Rules 8(a), 12(b)(1), 12(b)(2), and 12(b)(6) of the Federal Rules of Civil Procedure, dismiss Plaintiff Twin Med, LLC’s *Complaint* (Doc. No. 1).

2. Plaintiff fails to plead facts which establish diversity jurisdiction. The Plaintiff is required to plead facts as to the residence of each member of a Limited Liability Company, as that determines the company’s residence for purposes of diversity jurisdiction. However, Plaintiff has failed to do so. As such, this Court does not have subject matter jurisdiction over the matter.

3. Plaintiff fails to plead facts which establish personal jurisdiction over various Defendants. Specifically, Plaintiff fails to plead facts establishing personal jurisdiction of Skyline Healthcare, LLC, Pro Procurement Services, LLC, and Joseph Schwartz.

4. Plaintiff fails to plead facts for fraud compliant with Rule 9(b) of the Federal Rules of Civil Procedure, which requires that a party pleading fraud “must state with particularity the circumstances constituting fraud or mistake.”

5. Plaintiff has failed to plead facts entitling it to relief from Defendant Pro Procurement Services, LLC. Such Defendant is not a party to the Agreement nor is it identified

as a “Covered Facility” in the Agreement. Plaintiff’s *Complaint* provides no allegations against this Defendant which would allow this Court to draw a reasonable inference that it is liable for any of Plaintiff’s claims. As such, this Court should dismiss Defendant Pro Procurement Services, LLC from this matter.

6. In support of this motion, Defendants are filing a brief in support simultaneously with the filing of this motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 20th, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF System which will send a notification of such filing to:

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